



26 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :  
DU BOIS et al. :  
Application No.: 10/521,619 : DECISION  
PCT No.: PCT/US03/21575 :  
Int. Filing Date: 10 July 2003 :  
Priority Date: 15 July 2002 :  
Attorney Docket No.: A-71748/MSS (46305-770) :  
For: THERMAL PROCESSING SYSTEM :  
AND CONFIGURABLE VERTICAL CHAMBER :

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 26 February 2007 in the United States Patent and Trademark Office (USPTO).

### **BACKGROUND**

On 10 July 2003, applicants filed international application PCT/US03/21575, which designated the United States and claimed a priority date of 15 July 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 22 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 January 2005 (15 January 2005 being a Saturday and 17 January 2005 being a Federal holiday).

On 14 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 05 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 10 February 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, a declaration of inventors, a statement of facts by Maria Swiatek, a copy of a letter from Maria Swiatek to non-signing inventor Jeffrey Kowalski dated 17 January 2006, and a copy of a letter from Maria

Swiatek to non-signing inventor Jeffrey Kowalski dated 27 January 2006.

On 06 April 2006, a decision was mailed dismissing, without prejudice, applicants' petition under 37 CFR 1.47(a) because it was not clear that the non-signing inventor had been presented with the application papers. To establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration).

On 10 October 2006, applicants submitted a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a second statement of facts by Maria Swiatek, a copy of a letter from Maria Swiatek to non-signing inventor Jeffrey Kowalski dated 22 September 2006, a copy of a USPS Express Mail mailing label for a package sent to Mr. Kowalski on 22 September 2006, a copy of a letter from Maria Swiatek to non-signing inventor Jeffrey Kowalski dated 28 September 2006, a copy of a Federal Express US Airbill for a package sent to Mr. Kowalski on 28 September 2006.

On 22 January 2007, a decision was mailed dismissing without prejudice applicants' renewed petition under 37 CFR 1.47(a) because upon further review of the declarations filed 10 February 2006, it was noted that the copy of the declaration signed by Craig Wildman was incomplete and thus not in compliance with 37 CFR 1.497(a)-(b).

On 26 February 2007, the instant renewed petition under 37 CFR 1.47(a) was filed which was accompanied by, *inter alia*, a declaration of inventors signed by Craig Wildman.

### **DISCUSSION**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 06 April 2006, items (1) and (3) have been met.

As noted in the decision mailed 22 January 2007, item (2) has also been met.

Item (4) has now been met as well. The declaration of inventors provided 26 February 2007 signed by Craig Wildman is complete. That declaration taken together with the other declarations filed 10 February 2006 are in compliance with 37 CFR 1.497(a)-(b).

### **CONCLUSION**

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **26 February 2007**.



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Legal Examiner

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For: THERMAL PROCESSING SYSTEM AND CONFIGURABLE VERTICAL CHAMBER

Dear Mr. Kowalski:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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